

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF NEW YORK

UNITED STATES OF AMERICA,

v.

18-CR-108-EAW

ROBERT MORGAN, et al.

Defendants.

DECLARATION OF MICHAEL DIORIO

I, Michael DiOrio, declare as follows:

1. I am an Executive Director of Ladder Capital Finance LLC (“Ladder”) and have general responsibility for management of the repayment of the Mortgage Loan (defined below). I make this Declaration in support of the Government’s Motion for Interlocutory Sale of Property.

2. Ladder was provided with a copy of an agreement for the purchase and sale (the “PSA”) of the real property located at 9000 Old Station Road, Cranberry, Pennsylvania and known as Eden Square (“Eden Square”), dated May 2, 2019, and made by and between Cranberry Vista Apartments LLC (the “Seller”) and Freshcorn Square, DE 1 LLC and Freshcorn Square DE 2 LLC (jointly and severally, the “Purchaser”). *See* Exhibit A, attached hereto. Under the PSA, the sale of Eden Square to Purchaser (the “Sale”) was to be for the sales price of \$38,900,000 and scheduled to close on June 6, 2019 but, to my knowledge, a closing has not taken place yet.

3. On May 19, 2017, Ladder and the Seller entered into a certain Loan Agreement (the “Loan Agreement”) pursuant to which Ladder made a \$35,850,000 mortgage loan (the “Mortgage Loan”) to the Seller. The Mortgage Loan is secured by, among other things, a first mortgage lien

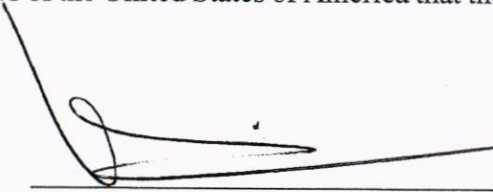
on Eden Square. The initial term of the Mortgage Loan was twenty-four (24) months, with the outstanding principal balance of the Mortgage Loan (together with other amounts set forth in the Loan Agreement) due on the initial maturity date (*i.e.*, June 6, 2019).

4. Although consummation of the Sale is not a condition to the Seller's obligation to repay the Mortgage Loan, the inability of the parties to timely complete the Sale resulted in the Mortgage Loan not being repaid by the June 6, 2019 maturity date and, therefore, the Mortgage Loan is currently in default and accruing default interest, late fees and expenses on a daily basis. As of June 30, 2019, the Mortgage Loan was accruing per diem interest at a rate of \$13,145 per day. Under the Loan Agreement, the Seller is responsible for Ladder's attorneys' fees, which are increasing daily, and other costs and servicing fees for, among other things, "enforcing any Obligations of or collecting any payments due" under the Mortgage Loan. As such, as of June 30, 2019, the total amount due and owing on the Mortgage Loan obligation is \$37,040,412.40,¹ which is comprised of the \$35,850,000 unpaid original principal amount, the exit fee (*i.e.*, additional interest), default interest, late fees, attorneys' fees and other fees and expenses.

5. Ladder is entitled to repayment of its Mortgage Loan and, given the requirements of the various parties involved with the Sale in light of the indictment of defendant Robert Morgan, I respectfully submit that any further delay of the Sale will further diminish the likelihood of the Sale.

I declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct.

Executed on July 8, 2019.



Michael DiOrio

¹ From which any escrow balances will be deducted to arrive at a net payoff amount.